

S.B.Cr.Misc. Bail App. No. 5894/2007
(Bhagwana Ram Vs. State of Rajasthan)

Date of order : 17/12/2007

HON'BLE MR.H.R.PANWAR, J.

Mr. B.S.Rathore, for the petitioner.

Mr. Ashok Upadhyay, Public Prosecutor.

Mr. Bharat Devasi for the first informant-complainant.

Heard learned counsel for the petitioner and the Public Prosecutor for the State as also the counsel appearing for the first informant. Perused the order impugned and police investigation diary.

It is contended by learned counsel for the petitioner that the first-informant and 5 to 6 other persons namely Obaram, Jeevaram father of first-informant, Sanklaram and others encroached the Govt. land i.e. Gair Mumkin Gochar land. In compliance of the directions issued by the Deputy Secretary, Panchayati Raj Department dated 8.8.2007, the encroachment on the said land was to be removed, for which a meeting of Gram Panchayat was convened and as many as 14 persons, all elected representatives of the public attended the meeting and a resolution was passed to issue a notice directing the encroachers to remove the encroachments within seven days failing which it shall be removed at the cost of the Panchayat and the expenses incurred for such removal would be recoverable from the encroachers. The matter was referred to the Tehsildar for removal of the encroachers by various encroachers. However, the Tehsildar remitted the matter to the

petitioner who is Sarpanch to remove the encroachments at the panchayat level for which notices have been served on the first informant and other persons. It is further contended that the first informant has not been residing at the place alleged to have been encroached upon by him as he has been residing at different place on the land issued by the Gram Panchayat bearing Patta No. 156/99. Learned counsel has also shown me the photographs as also the Patta issued in favour of the first informant being Patta No. 156/99. The first informant has been residing on the land for which the Patta has already been issued by the Gram Panchayat in 1999, however, he encroached upon the Gair Mumkin Gochar land and that encroachment is alleged to have been removed by the direction of the Gram Panchayat.

From the resolution, Panchayat's correspondence entered into between Gram Panchayat and Tehsildar as also various action taken by the Gram Panchayat for removal of the encroachments, according to learned counsel in order to put the petitioner behind the bar, it was the first informant himself who lit the fire to the hamlet encroached by him on the Govt. land and a false case has been instituted.

I have carefully perused the police investigation diary. In compliance of the order dated 8.8.2007, the Panchayat convened the meeting and passed the resolution and there was a direction against the first informant to remove the encroachment from the Gair Mumkin Gochar Land. According to learned counsel for the first informant even

if the first informant is encroacher, it has to be removed after due process of law.

There is no evidence that it was the present petitioner who lit the fire. The only allegation is that the petitioner was seen running with some other persons.

Looking to the facts and circumstances of the case and having considered the oral arguments advanced by both the parties, without commenting on the merit of the case, I think it just and proper to enlarge the accused petitioner on bail.

Accordingly, this bail application filed under Sec. 439 Cr.P.C. is allowed and it is directed that petitioner Bhagwana Ram S/o Bhikhaji be released on bail in FIR No. 202/2007 P.S. Sarupganj, district Sirohi, provided he executes a personal bond for a sum of Rs. 20,000/- with two sound and solvent sureties in the sum of Rs. 10,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

(H.R.PANWAR), J.

RP